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19 **UNITED STATES DISTRICT COURT**

20 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

21 CITY OF OAKLAND,

22 Plaintiff,

23 v.

24 THE OAKLAND RAIDERS, A
CALIFORNIA LIMITED PARTNERSHIP;
25 ARIZONA CARDINALS FOOTBALL CLUB
LLC; ATLANTA FALCONS FOOTBALL
26 CLUB, LLC; BALTIMORE RAVENS
LIMITED PARTNERSHIP; BUFFALO
27 BILLS, LLC; PANTHERS FOOTBALL,
LLC; THE CHICAGO BEARS FOOTBALL
28 CLUB, INC.; CINCINNATI BENGALS,

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than The Oakland Raiders*

CASE NO. 3:18-cv-07444-JCS

**STIPULATION AND [PROPOSED]
ORDER REGARDING THE PROTOCOL
FOR THE PRODUCTION OF
ELECTRONICALLY STORED
INFORMATION AND HARD COPY
DOCUMENTS**

1 INC.; CLEVELAND BROWNS FOOTBALL
2 COMPANY LLC; DALLAS COWBOYS
3 FOOTBALL CLUB, LTD.; PDB SPORTS,
4 LTD.; THE DETROIT LIONS, INC.; GREEN
5 BAY PACKERS, INC.; HOUSTON NFL
6 HOLDINGS, LP; INDIANAPOLIS COLTS,
7 INC.; JACKSONVILLE JAGUARS, LLC;
8 KANSAS CITY CHIEFS FOOTBALL
9 CLUB, INC.; CHARGERS FOOTBALL
10 COMPANY, LLC; THE RAMS FOOTBALL
11 COMPANY, LLC; MIAMI DOLPHINS,
12 LTD.; MINNESOTA VIKINGS FOOTBALL,
13 LLC; NEW ENGLAND PATRIOTS LLC;
14 NEW ORLEANS LOUISIANA SAINTS,
15 LLC; NEW YORK FOOTBALL GIANTS,
16 INC.; NEW YORK JETS LLC;
17 PHILADELPHIA EAGLES, LLC;
18 PITTSBURGH STEELERS LLC; FORTY
19 NINERS FOOTBALL COMPANY LLC;
20 FOOTBALL NORTHWEST LLC;
21 BUCCANEERS TEAM LLC; TENNESSEE
22 FOOTBALL, INC; PRO-FOOTBALL, INC.;
23 and THE NATIONAL FOOTBALL
24 LEAGUE,

Defendants.

1 The parties to the above-captioned case jointly submit this Stipulation and [Proposed]
 2 Order Regarding the Protocol for the Production of Electronically Stored Information and Hard
 3 Copy Documents (hereinafter “Stipulation”) and respectfully request that the Court order that the
 4 Protocol govern the production of electronically stored information and hard copy documents in
 5 this case.

6 The parties’ joint submission of this Stipulation shall be without prejudice to any pending
 7 motions, including the Motion to Dismiss.

8 This Stipulation shall govern the parties and the production of any documents produced in
 9 the above-captioned case (the “Litigation”).

10 **I. GENERAL PROVISIONS**

11 **A. Scope:**

12 1. This Protocol governs the discovery of all types of documents, whether
 13 maintained as hard copy documents or as electronically stored information (“ESI”), both of which
 14 shall be produced electronically in the Litigation (collectively referred to as “Documents”).

15 2. Nothing herein shall alter the parties’ respective responsibilities to comply
 16 with the applicable Federal Rules of Civil Procedure, Local Rules of Court, the Civil Standing
 17 Orders for Magistrate Judge Spero, and the Guidelines of the United States District Court for the
 18 Northern District of California.

19 3. Nothing herein establishes any agreement regarding the scope of the
 20 discovery in the Litigation, or as to the relevance or admissibility of any Documents.

21 **B. Cooperation:** The parties are aware of the importance the Court places on
 22 cooperation and commit to cooperate in good faith throughout the matter consistent with this
 23 Court’s Guidelines for the Discovery of ESI.

24 **C. Preservation:** Upon the date of this Stipulation and Order, if not before, the parties
 25 shall take such affirmative steps as are necessary to preserve evidence related to the issues
 26 presented by the action, including, without limitation, interdiction of any document destruction
 27 programs and any ongoing erasures of e-mails, voice mails, and other electronically recorded
 28 material to the extent necessary to preserve information relevant to the issues presented by this

1 action. To the maximum extent feasible, all party files and records should be retained and
2 produced in their original form and sequence, including file folders.

3 The parties have discussed their preservation obligations and needs and agree that
4 preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the costs
5 and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

6 1. To the extent necessary, the parties will meet and confer in good faith
7 regarding ESI preservation time periods. The parties have and will continue to preserve ESI
8 related to the litigation;

9 2. The parties will exchange a list of the types of ESI they believe should be
10 preserved and the custodians, or general job titles or descriptions of custodians, for whom they
11 believe ESI should be preserved. The parties shall add or remove custodians as reasonably
12 necessary;

13 3. The parties will agree on the custodians per party for whom ESI will be
14 preserved; and

15 4. Those data sources that are not reasonably accessible because of undue
16 burden or cost pursuant to Fed. R. Civ. P. 26(b)(2)(B) and ESI from these sources will be
17 preserved, but need not be searched, reviewed, or produced: any form of media upon which
18 backup data is maintained in a party's normal or allowed processes, including but not limited to
19 backup tapes, disks, SAN, and other forms of media; and systems no longer in use that cannot be
20 accessed. Notwithstanding the above, to the extent a Party claims that any of these sources exist,
21 the Party will disclose its existence to the other Parties who shall have the right to challenge the
22 Party's identification of undue burden or cost, and the Parties shall meet and confer regarding
23 reasonable preservation, search and production.

24 D. Search: In searching for responsive materials in connection with Fed. R. Civ. P. 34
25 requests or for materials required to be disclosed under Fed. R. Civ. P. 26(a)(1), parties must
26 search computerized files, e-mails, voice mails, work files, desk files, calendars and diaries, and
27 any other locations and sources if materials of the type to be produced might plausibly be expected
28 to be found there. The parties agree to meet and confer upon the request of any party about

1 methods to search ESI in order to identify ESI that is subject to production in discovery and filter
2 out ESI that is not subject to discovery.

3 E. Responding to Requests for Production: In responding to requests for Documents
4 and materials under Fed. R. Civ. P. 34, all parties shall affirmatively state in a written response
5 served on all other parties the full extent to which they will produce materials and shall, promptly
6 after the production, confirm in writing that they have produced all such materials so described
7 that are locatable after a diligent search of all locations at which such materials might plausibly
8 exist. It shall not be sufficient to object and/or to state that “responsive” materials will be or have
9 been produced.

10 F. Production: Each party shall in good faith identify custodians and sources for the
11 initial production of Documents. When a party propounds discovery requests pursuant to Fed. R.
12 Civ. P. 34, the parties may agree to meet and confer as to timing (including rolling productions)
13 and order of responsive productions, and otherwise shall produce responsive Documents within a
14 reasonable period of time.

15 The parties will meet and confer in good faith regarding the custodians whose ESI will be
16 searched and the search terms and/or search strings to be applied against those custodians, share
17 drives and other sources.

18 G. Documents Protected from Discovery:

19 1. Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-
20 product-protected document, whether inadvertent or otherwise, is not a waiver of privilege or
21 protection from discovery in this case or any other federal or state proceeding. For example, the
22 mere production of privileged or work-product-protected Documents in this case as part of a mass
23 production is not itself a waiver in this case or in any other federal or state proceeding.

24 2. The parties may employ a “quick peek” process pursuant to Fed. R. Civ. P.
25 26(b)(5) and reserve rights to assert privilege as follows: Electronically stored information that
26 contains privileged information or attorney-work product shall be immediately returned if the
27 documents appear on their face to have been inadvertently produced or if there is notice of the
28 inadvertent production within thirty (30) days of such. In all other circumstances, Fed. R. Civ. P.

1 26(b)(5)(B) and the Stipulated Protective Order in this litigation shall apply.

2 H. Privilege Logs: Privilege logs shall be promptly provided and must be sufficiently
3 detailed and informative to justify the privilege. *See* Fed. R. Civ. P. 26(b)(5). No generalized
4 claims of privilege or work product protection shall be permitted. With respect to each
5 communication for which a claim of privilege or work product is made, the asserting party must at
6 the time of its assertion identify: (a) all persons making and receiving the privileged or protected
7 communication, (b) the steps taken to ensure the confidentiality of the communication, including
8 affirmation that no unauthorized persons have received the communication, (c) the date of the
9 communication, and (d) the subject matter of the communication. Absent good cause, failure to
10 furnish this information at the time of the assertion will be deemed a waiver of the privilege or
11 protection. Any party withholding documents based solely on the assertion of privilege shall serve
12 a privilege log within sixty (60) days after completing the production of documents responsive to
13 the request to which the privilege was asserted. Communications involving trial counsel that post-
14 date the filing of the complaint need not be placed on a privilege log.

15 I. Format for Production:

16 1. TIFF: Single-page, black and white, 300 DPI, 1 bit Group IV TIFF images
17 shall be provided for each page of each document, with each image file named after the production
18 number of that page with the extension “.tif”. A producing party will honor reasonable requests
19 for production of color images if the original Document contains color necessary to understand the
20 meaning or content of the Document.

21 2. OCR: The parties shall provide searchable Optical Character Recognition
22 (“OCR”) text of any hard copy documents that are scanned into TIFF image files, documents that
23 are maintained as static images in the ordinary course of business or documents that are otherwise
24 produced as TIFF images in accordance with the terms of this Protocol. OCR text files shall
25 indicate page breaks where possible. OCR text files shall be provided as a single text file for each
26 document, not one text file per page. Each file should be named with the beginning Bates number
27 that is assigned to its corresponding document, followed by .txt. OCR text files should be
28 provided in a self-identified “Text” directory. The parties shall not provide searchable OCR text

1 for the redacted portions of any redacted TIFF files.

2 3. If particular documents warrant a different format, the parties will cooperate
3 to arrange for the mutually acceptable production of such documents. The parties agree not to
4 degrade the searchability of documents as part of the document production process.

5 4. Foreign Language Text: The parties shall make reasonable efforts to ensure
6 that all technologies and processes used to collect, process and produce the text of any Document
7 – including all TIFF conversion and OCR processes, and the extraction of text from native files –
8 preserves all foreign language text, punctuation and other characteristics as they exist in the source
9 native file.

10 5. Parent-Child Relationships: Parent-child relationships (*i.e.*, the association
11 between an attachment and its parent document) should be preserved by assigning sequential
12 Bates numbers to all items within the parent-child group, and identifying those Bates numbers in
13 the relevant Document metadata and coding fields specified in Appendix 2 (“App. 2”). For
14 example, if an e-mail with embedded attachments is converted to a TIFF image, non-privileged
15 relevant attachments must be processed and assigned Bates numbers in sequential order, following
16 consecutively behind the TIFF image of the parent e-mail, with all document breaks preserved
17 within the family.

18 6. The Parties agree to negotiate in good faith to resolve any issues which arise
19 concerning any technical problems associated with the format for the production of documents and
20 to consider reasonable modifications of the production requirements to reduce burden and
21 expense.

22 J. Bates Numbering:

23 1. All Documents produced under this Protocol shall be assigned a Bates
24 number that must always: (1) be unique across the entire document production, (2) maintain a
25 constant length of nine digits (including alpha and 0- padding) across the entire production, (3) be
26 sequential from beginning to the end of the producing party’s production, and (4) be set forth in
27 the metadata field entitled “as produced file name” for the corresponding Document. However, if
28 Documents from prior or simultaneous litigation(s) are re-produced in this case, the Producing

1 Party, at its option and assuming no duplicative numbering, may utilize the Bates numbering used
2 in the other case(s).

3 2. The producing party shall identify the Bates number range of each
4 production in a cover letter or production log accompanying the production. If a producing party
5 skips a Bates number or set of Bates numbers in a production, the producing party shall identify
6 and note the gap in the cover letter or production log accompanying the production.

7 3. The producing party shall brand all TIFF images in the lower right-hand
8 corner with its corresponding Bates number, using a consistent font type and size. The producing
9 party shall take reasonable care to ensure that the Bates number does not obscure any part of the
10 underlying image. If the placement in the lower right-hand corner will result in obscuring the
11 underlying image, the Bates number shall be placed as near to that position as possible while
12 preserving the underlying image.

13 K. Redaction:

14 1. The parties agree that documents shall be redacted for (a) privilege, and (b)
15 social security numbers, credit card numbers, bank account numbers, and other personal
16 information.

17 2. Documents that are redacted shall be produced solely in TIFF. The words
18 “Redacted” shall appear over the redacted portion or portions on each page of the Document.

19 3. Applicable unaffected metadata fields specified in App. 2 shall be provided
20 for a redacted document if they can be extracted from the document.

21 L. Confidentiality Designations: For Documents produced as TIFF images, the
22 appropriate legend for any confidentiality designation in accordance with the Protective Order
23 entered in this Litigation shall be stamped in the lower left-hand corner of each page of the
24 Document. The confidentiality designation shall also be reflected in the “Confidentiality” field
25 specified in App. 2. Any inadvertent failure to designate a document or ESI item as confidential,
26 or other appropriate designation, does not waive confidentiality.

1 M. Load Files: All productions shall be provided with Concordance-compatible data
 2 load files and image load files as detailed in Appendix 1 (“App. 1”). Each deliverable volume
 3 shall limit directory contents to approximately 5000 files per folder.

4 N. Media Used for Production and Mode of Delivery: Documents shall be exchanged
 5 via encrypted portable hard drives or through secure file transfer protocol (“FTP”) or similar
 6 secure electronic transmission. All parties reserve the right to request that a production be made
 7 on a mutually acceptable alternative form of media should the form of media selected by the
 8 producing party be inoperable or incompatible with the receiving party’s systems. Documents that
 9 contain “non-public personal information” (as defined in the Gramm-Leach-Bliley Act) shall be
 10 produced in encrypted form, regardless of the type of media, as specified in the Protective Order.
 11 The password for any encrypted production media must be communicated separately from the
 12 production media.

13 O. ESI Liaison: Each party agrees to designate an ESI Liaison. Each ESI Liaison
 14 shall be prepared to participate in the resolution of ESI discovery issues; know the party’s ESI
 15 discovery efforts; and have access to those who are familiar with the party’s electronic systems
 16 and capabilities in order to, as appropriate, answer relevant questions. Each ESI Liaison will be,
 17 or have access to those who are, knowledgeable about the technical aspects of ESI discovery,
 18 including the location, nature, accessibility, format, collection, search methodologies, and
 19 production of ESI in this matter. Each party shall designate its ESI Liaison promptly after entry of
 20 this Stipulation and Order. The parties will rely on the liaisons, as needed, to confer about ESI
 21 and to help resolve disputes without court intervention. Any party is free to change its designated
 22 ESI Liaison by providing written notice to the other parties.

23 P. Failure to Comply: Except for good cause, no item will be received in evidence if
 24 the proponent failed to produce it in the face of a reasonable and proper discovery request
 25 covering the item, regardless of whether a motion to overrule any objection thereto was made.

26 **II. PRODUCTION OF HARD COPY DOCUMENTS:** Section II shall apply to all hard
 27 copy documents that are scanned for production as static images.

28 A. All hard copy documents shall be scanned and produced in TIFF in accordance

1 with the specifications contained herein.

2 B. Coding Fields: Only the coding information listed in App. 2 as applicable to Hard
3 Copy Documents shall be provided for hard copy paper documents that are scanned and converted
4 to TIFFs.

5 C. Unitization of Paper Documents: All hard copy paper documents shall be logically
6 unitized prior to scanning for production. Therefore, when scanning or producing paper
7 documents, distinct documents shall not be merged into a single file or database record, and
8 distinct documents shall not be split into multiple files or database records. The parties shall make
9 their reasonable best efforts to unitize documents correctly.

10 D. File/Binder Structures (Parent-Child Unitization): Where multiple hard copy
11 documents are organized into groups, such as folders, clipped bundles and binders, each distinct
12 document within that group shall be unitized as described in Section II.C. above, but maintained
13 together in a parent-child relationship as specified in Section I.H.5. The parties shall make their
14 reasonable best efforts to unitize parent-children groups correctly.

15 E. Identification: Where a document or a document group such as folder, clipped
16 bundle, or binder has an identification spine, "Post-It note," tab, divider or any other label, the
17 information on the label shall be scanned and produced as the first page of the document or
18 grouping. In addition, documents with notes affixed shall be scanned with the notes, and also
19 scanned with the notes removed so that all text is visible.

20 F. Custodian Identification: The parties shall utilize reasonable best efforts to ensure
21 that paper records for a particular custodian, which are included in a single production, are
22 produced in consecutive Bates number stamp order.

23 **III. PROCESSING OF ELECTRONICALLY STORED INFORMATION**

24 A. System Files: Common system and program files defined using the industry
25 standard list of such files maintained in the National Software Reference Library by the National
26 Institute of Standards & Technology (commonly used by e-discovery vendors to exclude system
27 and program files from document review and production) need not be processed, reviewed, or
28 produced.

1 B. Metadata Fields and Processing:

2 1. ESI shall be processed in a manner that preserves the source native file and
3 all metadata without modification (excepting processing to UTC and time zone normalization to
4 GMT), including their existing time, date and time-zone metadata consistent with the requirements
5 provided in this Stipulation.

6 2. Auto date/time stamps: ESI shall be processed so as to preserve and display
7 the date/time shown in the document as it was last saved by the custodian or end user, not the date
8 of collection or processing. If this is not technically possible, the producing party shall use its
9 reasonable best efforts to display the field code in the document.

10 3. Hidden text: ESI shall be processed in a manner that preserves hidden
11 columns or rows, hidden text or worksheets, speaker notes, tracked changes and comments.

12 4. ESI items shall be produced with the metadata and coding fields specified
13 in App. 2. Notwithstanding any language to the contrary, this Protocol does not give rise to an
14 obligation to create or manually code fields that are not automatically generated by the processing
15 of the ESI, or do not exist as part of the original metadata, provided, however, that the producing
16 party shall populate the following fields for all ESI produced: (a) BegBates; (b) EndBates; (c)
17 BegAttach; (d) EndAttach; (e) as produced filename and extension; (f) Custodian; (g)
18 SourceParty; (h) Redacted (if applicable); and (i) Confidentiality (if applicable).

19 C. Preservation of Families: Each Document within a file or subfile or that is part of
20 an e-mail and/or its attachments, containing one or more responsive Documents shall be produced
21 unless subject to de-duplication per the terms of this Stipulation.

22 D. De-duplication:

23 1. The producing party shall perform a global de-duplication during ESI
24 processing, and may de-duplicate both vertically and horizontally using industry standard MD5 or
25 SHA-1 algorithms only to create and compare hash values for exact matches, provided that
26 searchable custodial metadata is preserved, extracted and furnished in the "Duplicate Custodian"
27 field sufficient for the receiving party to identify each custodian of a particular document that was
28 eliminated through de-duplication. The resulting hash value for each item shall be reflected in the

1 Hash Value field specified in App. 2. The producing party need only produce a single copy of a
2 particular Document.

3 2. Any other methodology for identification of duplicates must be discussed
4 with the requesting party and approved in writing before implementation.

5 E. Email Threads: Where multiple email messages are part of a single “thread,” the
6 producing party is only required to produce the most inclusive message, including attachments,
7 and need not produce earlier, less inclusive email messages that are fully contained, including
8 attachments, within the most inclusive email message unless they contain unique attachments, in
9 such cases the less inclusive email message and accompanying attachment(s) must be produced.
10 For the avoidance of doubt, only email messages for which the parent document and all
11 attachments are contained in the more inclusive email message will be considered less inclusive
12 email messages that need not be produced; if the later message contains different text (such as
13 where the later message adds in-line comments to the body of the earlier message), or does not
14 include an attachment that was part of the earlier message, the earlier message must be produced.
15 Where an entire email thread is withheld from production under a claim of attorney client or
16 attorney work product privilege, the party’s privilege log should reflect only the most inclusive
17 message.

18 **IV. PRODUCTION OF NATIVE FILES**

19 A. The parties agree that certain Native File types do not lend themselves to
20 conversion to TIFF, and thus, shall be produced as Native Files, including spreadsheet-application
21 files (*e.g.*, MS Excel, MS Access, and .csv) and multimedia audio/visual files such as voice and
22 video recordings (*e.g.*, .wav, .mpeg, and .avi). The parties shall meet and confer regarding the
23 optimal production format and mode of production of such files as necessary.

24 B. In addition to producing the above file types in Native File format, the producing
25 party shall produce a single-page TIFF slipsheet indicating that an item was produced in its Native
26 File format, and containing language indicating that the Document is produced as a Native File,
27 and shall contain the Bates number and confidentiality legend, if any, that corresponds to the
28 Native File. The corresponding load file shall include NativeFileLink information for each Native

1 File that is produced.

2 C. The parties shall meet and confer in good faith regarding to the form and extent of
3 production of enterprise database-application files (*e.g.*, SQL and SAP) and/or a proprietary
4 database. Prior to the meet and confer, the producing party shall provide exemplar copies of
5 reports that are generated from the database with an explanation of their use, together with the
6 information specified in Section IV.B., above. If a response to a discovery request requires
7 production of a database that contains nonresponsive data in part, the producing party may query
8 the database for discoverable information and generate a report in a reasonably usable and
9 exportable electronic format (for example, in MS Excel or .csv format). The first line of each such
10 file shall show the column headers for each field of data included. The parties shall meet and
11 confer to finalize the appropriate data extraction and production format for specific information
12 contained in a database.

13 D. When producing data from any personal, proprietary, or enterprise database
14 application, the producing party, to the extent reasonably practicable, shall also provide any data
15 dictionary, key, or other information necessary to understanding the contents of the database and
16 its intended use and operation.

17 E. When TIFF images of certain documents are not readable due to processing
18 constraints, the producing party may propose to produce the Document as a Native File or in some
19 other format. The parties shall thereafter meet and confer within a reasonable time to agree on a
20 mutually acceptable format for the production of the Document at issue.

21 F. Through the pendency of this Litigation, the producing party shall exercise
22 reasonable, good faith efforts to maintain all preserved and collected Native Files in a manner that
23 does not materially alter or modify the file or the metadata.

24 G. Requests for Native Files: A requesting party may informally request in writing
25 that the producing party produce the Native File corresponding to a static image (unless that image
26 is redacted), and the producing party shall comply with any such reasonable requests. The request
27 for a specific native file(s) shall include the Bates numbers assigned to the TIFF document to
28 identify the corresponding Native File. Any subsequent production of the Native File shall

1 include the Bates number of the first page of the Bates range that corresponds to the previously
2 produced TIFF image.

3 H. Confidentiality: The placeholder TIFF image for each Native File shall contain the
4 appropriate confidentiality designation for the file, if any. The confidentiality designation shall
5 also be reflected in the “Confidentiality” field, and the assigned Bates number in the “as produced
6 filename,” as specified in App. 2. If a party reduces Native Files or other ESI designated
7 “Confidential” or “Highly Confidential” to hardcopy form, it shall mark the hardcopy with the
8 appropriate designation.

9 I. Redaction:

10 1. If the items redacted and partially withheld from production are
11 PowerPoint-type presentation decks or Excel-type spreadsheets, the entire Document must be
12 produced in TIFF format, including all non-privileged pages, hidden fields and other information
13 that does not print when opened as last saved by the custodian or end-user. For PowerPoint-type
14 presentation decks, this shall include, but is not limited to, any comments or speaker notes. For
15 Excel-type spreadsheets, this shall include, but is not limited to, hidden rows and columns, all cell
16 values, annotations and notes. The producing party shall also make reasonable efforts to ensure
17 that any spreadsheets produced only as TIFF images are formatted so as to be legible. For
18 example, column widths shall be formatted so that the numbers in the column will display rather
19 than “#####.” To the extent that any spreadsheet will not properly format so as be legible
20 when converted to TIFF for redaction of privileged content, upon request of the requesting parties,
21 the parties shall meet and confer to determine the most reasonable form of production.

22 2. If the items redacted and partially withheld from production are
23 audio/visual files, the producing party shall provide the non-privileged portions of the content. If
24 the content is a voice recording, the parties shall meet and confer to discuss the appropriate
25 manner for the producing party to produce the non-privileged portion of the content.

26 J. Exception Logs: To the extent any ESI items are excluded from review or
27 production because they are password-protected, encrypted, or subject to other forms of document
28 protection that the producing party cannot reasonably break, the producing party shall produce a

1 log containing any metadata and file contents that can be extracted for such items. The producing
2 party shall provide a copy of a log of such Documents for each of its custodians when the party
3 believes it has substantially completed production of Documents from a custodian, and shall
4 provide a final copy of the log upon completion of document production. If the requesting party
5 requests production of any files listed on the exception log, the parties shall meet and confer on
6 whether a reasonable and cost-effective means exists for attempting to provide the requested files.

7 **V. NON-PARTY DOCUMENTS**

8 A. A party that issues a non-party subpoena (“Issuing Party”) shall include a copy of
9 this Stipulation with the subpoena and request that the non-party produce Documents in
10 accordance with the specifications set forth herein.

11 B. The Issuing Party is responsible for producing copies of any Documents obtained
12 pursuant to a subpoena to all other parties, according to the specifications set forth herein.

13 C. Nothing in this Stipulation is intended to or should be interpreted as narrowing,
14 expanding, or otherwise affecting the rights of the parties or third parties to object to a subpoena.

15 **VI. MISCELLANEOUS PROVISIONS**

16 A. Objections Preserved: Nothing in this Protocol shall be interpreted to require
17 disclosure of either irrelevant information or relevant information protected by the attorney-client
18 privilege, work-product doctrine, or any other applicable privilege or immunity. Except as
19 provided expressly herein, the parties do not waive any objections as to the production,
20 discoverability, authenticity, admissibility, or confidentiality of Documents.

21 B. Modifications: This Stipulation and Order may be modified by a stipulated order of
22 the parties or by the Court for good cause shown.

23 C. Cost Allocation: The parties have considered cost-shifting or cost-sharing and have
24 reached the following agreement: Except as stated above, each party agrees to bear its own costs
25 of discovery, without prejudice to any application for costs pursuant to 15 U.S.C. § 15, 15a, or
26 15c, or subsequent agreement. The parties expressly reserve the rights to seek costs under the
27 Federal Rules of Civil Procedure in connection with disputes unaddressed by this Stipulation and
28 with respect to proposed variances therefrom.

1 **VII. RESOLUTION OF DISPUTES**

2 A. If a producing party cannot comply with any material aspect of this Protocol, such
3 party shall inform the requesting party in writing at or before the time of production as to why
4 compliance with the Protocol is unreasonable or not possible. Should disputes arise regarding
5 matters related to the production of Documents not specifically set forth in this Protocol, related to
6 the interpretation of this Protocol, or related to the parties' obligations hereunder, lead trial counsel
7 for Plaintiffs and Defendants shall meet and confer in person in an effort to resolve the matters, in
8 lieu of filing formal discovery motions.

9 B. After attempting other means to confer on an issue (*i.e.*, letter, phone call, e-mail),
10 any party may demand such a meeting on five (5) business days' notice. The location of the
11 meeting will alternate with the first location selected by lead counsel for Plaintiff, the second by
12 counsel for Defendant, etc. Within five (5) business days of the lead trial counsels' meet-and-
13 confer session, the parties shall provide a detailed Joint Letter to the Court, not to exceed five (5)
14 pages without leave of the Court. This Joint Letter shall include a description of every issue in
15 dispute and, with respect to each such issue, a detailed summary of each party's final substantive
16 position and their final proposed compromise on each issue. Upon receipt of the Joint Letter the
17 Court will determine what future proceedings are necessary.

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1 **IT IS SO STIPULATED**, through Counsel of Record.

2 DATED: July 12, 2019

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5 By: /s/ Maria Bee

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from each of the signatories hereto.

By: /s/ Michael H. Pearson
MICHAEL H. PEARSON

Attorney for Plaintiff City of Oakland

1 **IT IS SO ORDERED** that the foregoing agreement is approved.

2

3 DATED: _____

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MAGISTRATE JUDGE JOSEPH C. SPERO
UNITED STATES DISTRICT COURT

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Appendix 1: Production Delivery Requirements

General Instructions

1. A cover letter or e-mail shall be included with each production, and the Bates range of the production.
2. Data can be produced via encrypted portable hard drives or through secure file transfer protocol ("FTP") or similar secure electronic transmission.
3. Label all media with the following:
 - a. Case number
 - b. Production date
 - c. Bates range
4. Each deliverable volume shall limit directory contents to approximately 5000 files per folder.

Image Load Files

- Image load (cross-reference) files shall be produced in Opticon format.
- The name of the image load file shall mirror the name of the delivery volume, and shall have the appropriate extension (*e.g.*, ABC001.OPT).
- The volume names shall be consecutive (*e.g.*, ABC001, ABC002, et seq.).
- There shall be one row in the load file for every TIFF image in the production.
- Every image in the delivery volume shall be cross-referenced in the image load file.
- The imageID key shall be named the same as the Bates number of the page.
- Load files shall not span across media, *i.e.*, a separate volume shall be created for each piece of media delivered.
- Files that are the first page of a logical document shall include a "Y" where appropriate. Subsequent pages of all documents (regular document, e-mail, or attachment) shall include a blank in the appropriate position.

Sample Image (Opticon) Load File :

```
MSC000001, MSC001,D:\IMAGES\001\MSC000001.TIF,Y,,,3
MSC000002, MSC001,D:\IMAGES\001\MSC000002.TIF,,,,,
MSC000003, MSC001,D:\IMAGES\001\MSC000003.TIF,,,,,
MSC000004, MSC001,D:\IMAGES\001\MSC000004.TIF,Y,,,2
MSC000005, MSC001,D:\IMAGES\001\MSC000005.TIF,,,,,
```

Data Load Files:

- Data load files shall be produced in .DAT format.
- The data load file shall use standard delimiters:
 - Comma - ¶ (ASCII:020);
 - Quote - ¢ (ASCII:254);

- 1 • Newline - ® (ASCII:174);
- 2 • Multivalued - ; (ASCII:059);
- 3 • Nested Value - \ (ASCII:092).
- 4 • The first line of the .DAT file shall contain the field names arranged in the same order as
- 5 the data is arranged in subsequent lines.
- 6 • All date fields shall be produced in mm/dd/yyyy format, if possible. If a date value cannot
- 7 be provided in the specified format, the field shall be null.
- 8 • All attachments shall sequentially follow the parent document/e-mail.
- 9 • Carriage-return shall be used to indicate the start of the next record.
- 10 • Load files shall not span across media (*e.g.*, hard drives, FTP, etc.); a separate volume shall
- 11 be created for each piece of media delivered.
- 12 • The name of the data load file shall mirror the name of the delivery volume, and shall
- 13 have a .DAT extension (*e.g.*, ABC001.DAT).
- 14 • The volume names shall be consecutive (*e.g.*, ABC001, ABC002, et seq.).
- 15 • If foreign language / Unicode text exists, the .DAT file shall be in UTF-8 or UTF-16
- 16 format where appropriate.
- 17 • Data load files should be provided in a self-identified "Data" folder.

Sample .DAT Load File:

\bBegBates\bEndBates\bBegAttach\bEndAttach\bPgCount\bCustodian\b

OCR/Extracted Text Files

- 17 • For each document, an extracted text file should be provided along with its corresponding
- 18 TIFF image file(s) and metadata.
- 19 • The file name of each extracted text file should be identical to that of the first image page
- 20 of its corresponding document, followed by .txt. File names should not contain any special
- 21 characters or embedded spaces. The text of native files should be extracted directly from
- 22 the native file. However, if a document has been redacted, OCR of the redacted document
- 23 will suffice in lieu of redacted text.
- 24 • OCR or Extracted Text files shall be provided in a separate \OCR\ directory containing
- 25 Document level text files.
- 26 • If Foreign Language/Unicode text exists, TEXT files shall be in appropriate UTF-8 or
- 27 UTF-16 format, consistent with Section I.I.3.

Native Files.

- 26 • ESI that cannot be interpreted in an image format, or for such that may be voluminous and
- 27 burdensome when printed to image files, shall be produced in its Native File Format, as
- 28 outlined in Section IV herein, with its file name corresponding to its designated Bates
- number. Such files shall include Microsoft Excel, PowerPoint and Access file types, multimedia files (*e.g.*, ".avi", ".mpeg", ".wmv", ".mp3", ".csv, etc.), AUTOCAD files,

1 source code, and other files that may be requested and/or agreed upon by counsel.

- 2 • All documents produced in their Native File Format must be named per its BEGBATES
3 number, and a full path of the Native File must be provided in the load file for the
NATIVEFILELINK field.
- 4 • All Native Files produced must contain a corresponding image placeholder with
5 appropriate endorsements, as outlined in Section IV.A. herein.
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Appendix 2: Metadata and Coding Fields

Field Name	Applicable Document Types ("ESI" shall mean email and all other electronically stored files)	Field Description
BegBates	Hard Copy Documents & ESI	First Bates number (production number) of an item
EndBates	Hard Copy Documents & ESI	Last Bates number (production number) of an item **The EndBates field shall be populated for single-page items.
BegAttach	Hard Copy Documents & ESI	First Bates number of family group.
EndAttach	Hard Copy Documents & ESI	Last Bates number of attachment range (<i>i.e.</i> , Bates number of the last page of the last attachment)
Custodian	Hard Copy Documents & ESI	Name of person from whose files the item is produced
Duplicate Custodian(s)	All ESI Items	Other sources/custodians whose files contained a particular document that was eliminated through de-duplication.
HashValue	All ESI Items	The MD5 or SHA-1 hash value of the file.
NativeFileLink	All ESI Items	Hyperlink path for documents provided in native format only.
SourceParty	Hard Copy Documents & ESI	Name of party producing the item
RecordType	Hard Copy Documents & ESI	Indicates item type (<i>e.g.</i> , hard-copy documents, e-mail, edoc.

Field Name	Applicable Document Types ("ESI" shall mean email and all other electronically stored files)	Field Description
		image, attachment)
FileExtension	All ESI items	Indicates file extension of source native file
DateSent (mm/dd/yyyy)	E-mail, Calendar	Date e-mail or calendar item was sent
TimeSent (hh:mmAM/PM)	E-mail, Calendar	Time e-mail or calendar item was sent
LastModDate (mm/dd/yyyy)	All ESI items	Date the item was last modified
DateReceived	E-mail, Calendar	Date e-mail or calendar item was received
TimeReceived	E-mail, Calendar	Time e-mail or calendar item was received
To	E-mail, Calendar	The names and SMTP e-mail addresses of all recipients that were included on the "To" line of the e-mail or calendar item
From	E-mail, Calendar	The name and SMTP e-mail address of the sender of the e-mail or calendar item
CC	E-mail, Calendar	The names and SMTP e-mail addresses of all recipients that were included on the "CC" line of the e-mail or calendar item
BCC	E-mail, Calendar	The names and SMTP e-mail addresses of all recipients that were included on the "BCC" line of the e-mail or calendar item
DateCreated (mm/dd/yyyy)	All ESI items	Date the item was created

Field Name	Applicable Document Types ("ESI" shall mean email and all other electronically stored files)	Field Description
TimeCreated (hh:mm AM/PM)	All ESI items	Time the item was created
FileName	All ESI items	The original filename of the source native file for an ESI item
As produced filename	All ESI items	The beginning Bates no. corresponding to the ESI
Title	Efile	Any value populated in the Title field of the source file metadata or item properties
Subject	All ESI items	Any value populated in the Subject field of the source file metadata or document properties (e.g., subject line of e-mail or calendar item)
Author	All ESI items	Creator of the document; any value populated in the Author field of the source file metadata or document properties
Redacted	Hard Copy Documents & ESI	User-generated field that will indicate redactions; "X," "Y," "Yes," "True," are all acceptable indicators that the document is redacted. Otherwise, blank.
Confidentiality	Hard Copy Documents & ESI	Indicates if item has been designated as "Confidential," or "Confidential—Attorneys' Eyes Only" or "Confidential—Restricted" under the Protective Order